

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**UNITED STATES OF AMERICA and the
PEOPLE OF THE VIRGIN ISLANDS,**

Plaintiffs,

v.

GILLIAN HARPER and KALIF FLANDERS,

Defendants.

1:10-cr-29

**TO: Denise Hinds, Esq., AUSA
Patricia Schrader-Cooke, Esq., AFPD
Emile A. Henderson, III, Esq.**

ORDER

THIS MATTER came before the Court upon the government's Motion to Preclude Calling of Adverse Witnesses (Docket No. 22). Defendant Flanders filed an opposition to said motion, and the government filed a reply thereto.

Defendant Flanders argues that Section 3 of the Revised Organic Act and not the federal Bail Reform Act governs bail determination in the Virgin Islands when a defendant is charged with first degree murder, based upon the holding of *Browne v. People of the Virgin Islands*, S. Ct. No. 2008-022, 2008 WL 4132233 (V.I. August 29, 2008). However, the *Browne* court specifically declined to overrule *Government of the Virgin Islands v. Ortiz*, 427 F.2d 1043

(3d Cir. 1970), and extend its holding to a defendant tried for first degree murder in the District Court. *Browne*, 2008 WL 4132233 at *6. According to *Ortiz*, the Bail Reform Act applies to all criminal proceedings in the District Court of the Virgin Islands. *Ortiz*, 427 F.2d at 1048. Consequently, the Court finds the government's argument persuasive and finds that Defendants do not have an unqualified right to call adverse witnesses.

Accordingly, it is now hereby **ORDERED** that the government's Motion to Preclude Calling of Adverse Witnesses (Docket No. 22) is **GRANTED**.

ENTER:

Dated: July 28, 2010

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE